

North Somerset Council

Report to the Place Policy and Scrutiny Panel

Date of Meeting: 8 March 2023

Subject of Report: Proposal to implement a pilot scheme for delivering Biodiversity Net Gain, required from development, on North Somerset Council's open space.

Town or Parish: All

Officer/Member Presenting: John Flannigan, Head of Open Spaces, Natural Environment and Leisure

Key Decision: No

Reason:

The value of this decision is less than £500,000 and this decision will not have a significant impact on two or more wards in North Somerset

Recommendations

To note the proposal to implement a pilot scheme to deliver Biodiversity Net Gain (BNG) on North Somerset Council open spaces created through offsetting from development.

1. Summary of Report

1.1. North Somerset Council is taking the issues of nature seriously and declared a nature emergency in November 2020 following a Council motion to rewild as much of its land as possible. In response to this, the council is committed through the Green Infrastructure Strategy and other initiatives to improve and increase biodiversity in North Somerset. Rewilding initiatives over the last three years have resulted in some significant improvements to habitats and species in North Somerset, with 25,000 trees planted and tall grass management regime introduced to 40 hectares of open space. It has been found through work with Avon Wildlife Trust and the Rewilding Champions that there is about a twofold increase in plant species and insects in rewilded areas. Biodiversity Net Gain is another complementary opportunity to improve biodiversity in North Somerset using council land and without significant additional cost to the council.

1.2. Biodiversity Net Gain policy set out under the Environment Act 2021 due to come into force in Autumn 2023 enables councils to 'bank' habitats to generate and income which can in turn be used to re-invest in environmental returns such as improvements to habitats, as well as enhanced access for people and to finance the delivery of BNG.

- 1.3. Habitat banking is a form of green finance which would allow the Council to finance habitat restoration and creation. This report sets out the opportunities and options available to the Council and outlines a pilot approach that is proposed to enable the council to start exploring and realising this opportunity.
- 1.4. The pilot scheme will enable the council to work through the issues relating to the provision of BNG on council open space and the associated commercial considerations prior to potentially expanding the scheme more widely, as well as understanding the wider BNG issues that will arise when the legislation is finalised in the autumn.
- 1.5. Appendix A identifies the small number of North Somerset Council owned sites to be set aside for the pilot project, for a minimum period of 30 years. This is for the specific purpose of land being used to mitigate for offsite BNG that must be provided by Developers.
- 1.6. The outcomes of implementing this pilot project are expected to be as follows
 - improving biodiversity on North Somerset Council land;
 - generating income to better manage biodiversity and contribute to the maintenance and management of parks and open spaces;
 - enabling developers to access a straightforward approach to delivering their BNG requirements;
 - and creating capacity for the Council to process BNG in future planning applications.

2. Policy

2.1 Managing BNG contributes to North Somerset being a great place for people to live, work and visit and directly enables the Council to meet its nature emergency and rewilding objectives.

2.2 Supports the actions of the 2021 Green infrastructure strategy.

2.3 Supports the Full Council motions on rewilding as much Council land as possible (2019) and the nature emergency (2020).

3. Details

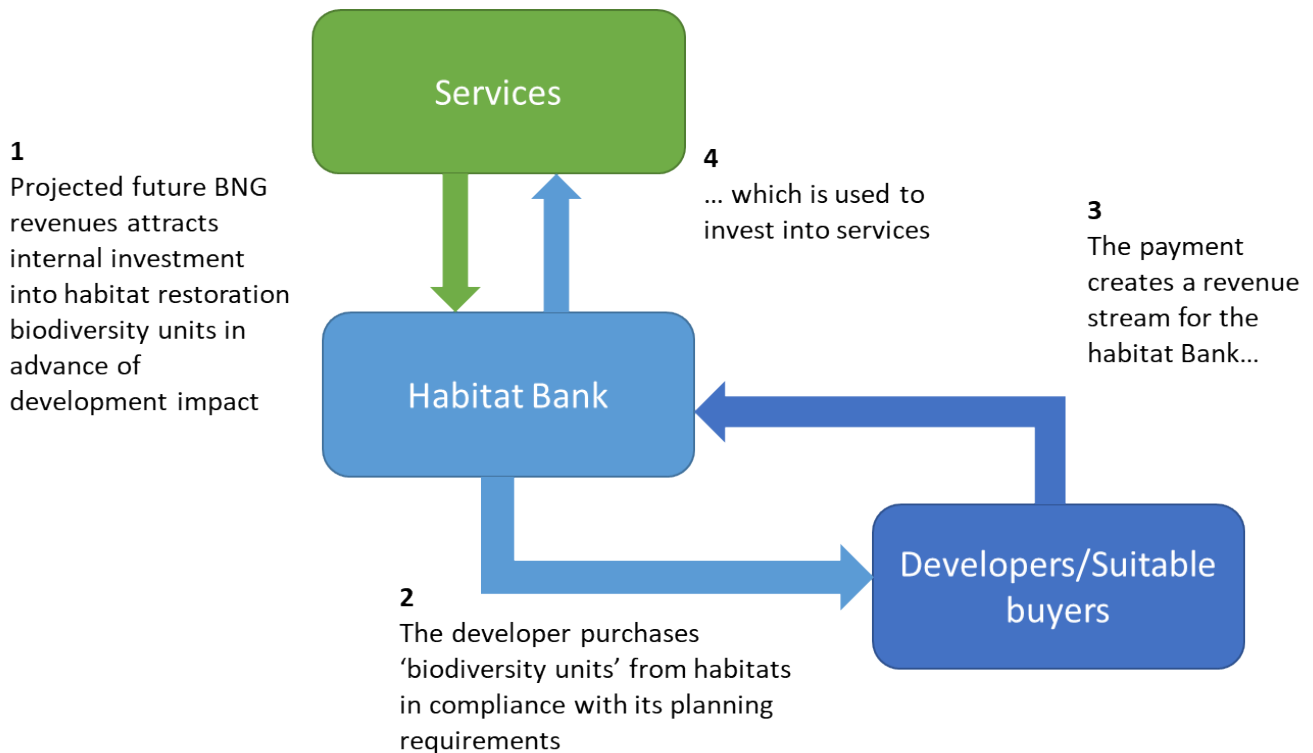
- 3.1. There are opportunities available to the Council in relation to Biodiversity Net Gain policy set out under the Environment Act 2021 due to come into force in Autumn 2023.
- 3.2. Planning applications will be required to measure biodiversity gains using a biodiversity metric, which has been produced by DEFRA. This biodiversity metric can be used to calculate how a development will change the biodiversity value of a site. The metric allows us to assess the biodiversity unit value of an area of land, demonstrate biodiversity net gains or losses in a consistent way, measure and account for direct impacts on biodiversity and to compare proposals for a site - such as creating or enhancing habitat on-site or off-site
- 3.3. The metric calculates the values as 'biodiversity units'. Biodiversity units are calculated using the size of the habitat, its quality and location.

- 3.4. This report sets out the opportunities around BNG provision which include stimulating a sustainable revenue stream, which the Council can establish through internal investment, to enhance and maintain the Council's green spaces for people and wildlife.
- 3.5. The approach has several benefits including generating an income; enhancing biodiversity across North Somerset Council's open spaces; enabling developers to access a straightforward approach to delivering their BNG requirements; and to seek to create capacity for the Council to process BNG.
- 3.6. It is proposed to establish a pilot BNG Delivery Programme (BNGDP) that will enable NSC to set aside land (habitat banking) to achieve these benefits, at lowest risk.
- 3.7. The pilot scheme will also enable us to work through issues relating to the provision of BNG on council open space and the associated commercial considerations. The scheme will also provide a valuable insight into our role in processing BNG through the planning system when it becomes a mandatory requirement later in 2023.
- 3.8. Appendix A identifies the small number of North Somerset Council owned land proposed to be set aside for this pilot project, for a minimum period of 30 years. This pilot is for the specific purpose of land being used to mitigate for offsite BNG that must be provided by Developers. These six locations have a total area of 76 hectares and have been identified for both grassland management and tree planting and have the potential to generate a total of 252 biodiversity units. Before any of these sites are progressed, they will undergo further, more detailed investigation, to ensure their suitability.

Proposed Habitat Banking

- 3.9. Habitat banking is a form of green finance which allows the Council to finance habitat restoration, and in advance, through investment and "bank" the resulting biodiversity units. These units can then be purchased by developers seeking to comply with the mandatory 10% net gain. The Council then receives its original investment returned to invest in environmental returns, such as improvements to habitats such as woodlands and meadows as well as enhanced access for people and to finance the processing of BNG in planning applications.
- 3.10. The sale of biodiversity units therefore provides a revenue stream for us to maintain the newly restored or created habitat for a minimum of 30 years through the creation of a commuted sum.
- 3.11. The basics of how habitat banking will function is shown in figure 1.

Figure 1 – Proposed Habitat Banking model



3.12. Key points for consideration:

- This approach is modelled against pilot delivery at 6 sites (76 hectares) owned by North Somerset Council and all figures quoted are relative to that. Other sites may be added for future phases.
- There is a likely demand for approximately 170 biodiversity units from sites allocated in the current local plan (where BNG cannot be achieved within the development sites themselves)
- Work to date and to point of establishment of the BNGDP has been funded through transformation funding
- The BNGDP project will report to the Place Scrutiny Panel thereby ensuring strong internal oversight of the pilot.
- BNG units will be sold at market rates which are likely to fluctuate depending on wider economic forces.
- If all 170 units of available BNG units are sold it is estimated that the Council will have generated c £400k of excess revenue to invest as required.
- The BNGDP option is preferred because this provides the opportunity for the Council to control the provision of land and make maximum benefit from income.
- If we do not find a new approach to habitat banking we put at risk an opportunity to raise income and losing control over where the habitat enhancements are delivered (it could be anywhere in the country).
- North Somerset Council will benefit from significantly improved biodiversity on its land at no cost

3.13. In summary the North Somerset Council BNG Delivery Programme will:

- Invest to fund nature restoration across 6 pilot sites

- Provide new sources of short and long-term revenue for NSC.
- Deliver high-quality biodiversity offsets across North Somerset that provide maximum social value.
- Deliver an investable, credible and cost effective solution for local developments to meet their obligations through the Local Plan and the Environment Act.
- Ensure that NSC retains strategic control over the emerging market for biodiversity net gain in a local context.
- Ensure that the new biodiversity duties do not result in nature and associated benefits being lost from North Somerset by market led schemes that could deliver net gain elsewhere in the region
- Facilitate joined up, landscape-scale planning, enabling NSC to proactively deliver on its Local Plan policies and green infrastructure strategy ahead of development.
- Provide greater financial sustainability for the long-term maintenance of nature-rich green infrastructure across North Somerset.
- Assist North Somerset's standing as a leader in climate adaptation and nature conservation while securing a first mover advantage locally.

Forecasted annual sale of units

3.14. It is estimated that there will be 10 units sold to developers per year from two separate developments requiring 5 units of offsite mitigation each. This forecast is dependent on a wide range of economic factors that affect house building and so is a conservative estimate. This number of sold units will enable the Council to resource the delivery of BNG and deliver MTFP savings. Current estimates indicate the Council has a potential for 170 units from the six identified sites meaning there is a pipeline for the next 17 years.

Outcomes and Benefits

Financial

3.15. Based on a financial assessment and modelling of selling 10 units per year, the following financial outputs are possible:

- The BNGDP is forecast to provide a new ongoing income stream to the Open Spaces, Natural Environment and Leisure service for the maintenance of high-quality habitats, off-set existing costs and delivering MTFP savings.
- This is forecast to generate sufficient income to cover the cost of staff to process BNG (£40k) and deliver £25k pa of savings.
- It is proposed that any surpluses generated will be used for the delivery of priority green infrastructure projects.

Non-financial

- Delivery of Council priorities around re-wilding and the nature emergency
- Delivery of site enhancements as part of North Somerset Council's green infrastructure strategy.
- Creation of principles and approach for biodiversity offsetting and net gain delivery that also provides maximum social value.
- Delivery of an effective offsetting solution for local development projects.
- Safeguarding of public access to high quality nature within North Somerset.

- North Somerset Council seen as a leader in adaptation to emerging natural capital markets and climate change.
- Proof-of-concept for further financially sustainable natural environment investment models.

Timetable for delivery

- 3.16. The Government have provided an approximate period of Autumn 2023 for when BNG will become mandatory. In the meantime developers are seeking offsite BNG units so it is proposed to introduce the pilot before the formal requirement.

3. Consultation

The Executive Member for Neighbourhoods and Community Services

The Place Policy and Scrutiny Panel

The BNGDP proposal has been developed through work carried out with consultants and in discussion with Natural England and the West of England green infrastructure working group.

The opportunities from habitat banking are also addressed in the North Somerset Council's green infrastructure strategy where it is recognised that planning and development can contribute positively to the strategic GI network

The proposal was identified in the NSC 2023/24 MTFP budget.

4. Financial Implications

Income will be generated from selling BNG units to developers.

Currently, one BNG unit sells for c. £22,000 which must cover the cost of adapting the land in readiness for biodiversity improvements, ongoing management for the statutory period of 30 years and all legal agreements between the Council and the developer.

The developer will be required to pay for each BNG unit in full before the Council will discharge the relevant planning condition to enable development to commence.

Costs

Costs associated with the pilot project include

1. Setting up the legal and operational frameworks to deliver the scheme
2. Introducing new management activities to the identified land to enable BNG to be delivered

The financial modelling (Table 1) relates to ten units being sold per year. This is estimated to be two developments each requiring 5 units for offsite mitigation and is considered a reasonable forecast of future transactions.

Activity	10 units*	Notes
Upfront management	£30,000	This expenditure is required to adapt the site at the start of the project to ensure that the BNG can be delivered. This will create the 'bank' of habitat necessary to continue delivering the scheme.
Maintenance	£120,000	This is for a period of 30 years @ £400 per year per unit
Processing BNG Planning Applications	£40,000	This refers to staffing costs related to processing the BNG component of planning applications
Processing legal agreements with developers	£5,000	This includes all legal costs required to process the s106 agreement with the developer.
MTFP savings	£25,000	This component is the return on the investment required to deliver the BNGDP
Total costs for delivering 10 BNG units	£220,000	It will be necessary to sell a minimum of 10 units per year to developers to meet the costs required to process BNG.
Income from selling 10 units at £22k per unit	£220,000	Current market rates are £22,000 per unit

* These are approximate costs that will be refined once sites have been confirmed to proceed

Table 1 – annual costs and income related to delivering 10 units of BNG

Based on this level of units sold the exercise will be cost neutral.

Funding

Funding for the scheme is described below.

1. Setting up the legal and operational framework to deliver the scheme

This is being funded by the Transformation programme budget for £40k and a DEFRA grant of £20k

2. Income from selling BNG units will offset the management costs and ongoing maintenance requirements as well as supporting MTFP savings as illustrated in Table 1 above.

5. Legal Powers and Implications

The Environment Act 2021 makes BNG a mandatory requirement for new development.

6. Climate Change and Environmental Implications

The provision of BNG on North Somerset Council's open space will support wider objectives to increase rewilding and to address the nature emergency. A more resilient network of open space will also be more able to adapt to the climate emergency.

7. Risk Management

Risks have been identified for this scheme.

An industry wide issue relates to Council's having enough capacity to carry out the technical evaluations. Our mitigation centres on employing staff from the large pool of graduates in this field because this is considered a good entry point into ecology related jobs.

The significant commercial risk relates to insufficient demand for biodiversity units from development. The pilot approach means we are committed to create only a small number of units in year one to meet estimated demand.

There are also potential reputational risks for the Council in adopting this approach. For example, open space used for this purpose has to guarantee BNG management for a period of 30 years, thereby potentially conflicting with other uses. However, two of the proposed sites do not have public access and the other four sites will be managed to enable public access to continue alongside the biodiversity improvements, which is happening generally across North Somerset Council's open space through our rewilding programme.

It may also be perceived that by providing land for developers to deliver BNG the Council is providing pre-emptive support for development. However, planning permission is granted based on far more factors than BNG, and if the Council did not provide the land for BNG others would.

It is important to note that the costs associated with delivering BNG might be considered a risk to the viability of development subsequently impacting vulnerable areas such as social housing.

The Environment Act makes BNG a statutory requirement and it will have to be delivered to achieve Planning permission. How the developer chooses to deliver this will determine the cost of BNG. For example, developers can avoid the need to supply BNG offsite, and thus the associated cost, by following best practice (e.g. the Building with Nature scheme) and providing the BNG on site. Developers will therefore have to weigh up, in terms of cost and improving nature, the best way for them to deliver BNG.

8. Equality Implications

[Have you undertaken an Equality Impact Assessment? Yes/No

Yes

9. Corporate Implications

The project will require support from Legal Services to ensure that the contractual relationships between us and other parties such as developers are robust.

Financial services will also be required to develop systems to process income and expenditure related to this project.

Transformation Programme funding has been made available to provide capacity to deliver these requirements.

10. Options Considered

To not set land aside for offsetting BNG needs for developers. This was rejected because this scheme offers the opportunity to generate income whilst creating more biodiverse open space.

Offsetting land in this way also covers the costs of providing the expertise to assess BNG in planning applications that would not be possible to achieve with the current capacity in both Planning and the Natural Environment team.

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Appendices:

Appendix A – North Somerset Council sites suitable for the BNG pilot programme

Appendix B - Options for delivering BNG in North Somerset

Background Papers:

DEFRA - Biodiversity metric - <https://www.gov.uk/guidance/biodiversity-metric-calculate-the-biodiversity-net-gain-of-a-project-or-development>

Appendix A – North Somerset Council sites suitable for the BNG pilot programme

It is proposed that in order to realise BNG offsetting benefits and to deal with the challenges, especially the financial component of delivering this project, a small proportion of North Somerset Council owned land is set aside as a pilot project, for a minimum period of 30 years. This is for the specific purpose of land being used to mitigate for offsite BNG that must be provided by Developers.

The pilot scheme will also enable us to work through all the issues relating to the provision of BNG on council open space and the associated commercial considerations.

Consultants have undertaken site surveys and assessments of six sites owned and managed by North Somerset Council for the potential to act as a biodiversity offset for development in North Somerset (see Table 2). The site investigations involved a habitat survey and condition assessment for each site, as well as an assessment of the enhancement potential for each site.

These six sites were chosen as they have an area greater than one hectare and are in or very close to the West of England Nature Partnership (WENP) Nature Recovery Network (NRN). These six locations have a total area of 76 hectares and have been identified for both grassland management and tree planting and have the potential to generate a total of 252 biodiversity units. Before any of these sites are progressed, they will undergo further, more detailed investigation, to ensure their suitability.

BNG is measured in units using a DEFRA approved methodology (see background paper – Biodiversity metric: calculate the biodiversity net gain of a project or development).

Site	Area (ha)	BNG units available*
Locking Head Farm, WSM	13	85
Avoncrest site off Herluin Way, WSM	49	124
Portishead golf course	4	13
Kilkenny Fields, Portishead	5	13
Merlin Park, Portishead	2	6
Marshalls Field, Clevedon	3	11
Total	76	252

* These units are indicative and will require further investigation before final unit availability is known.

Table 2 – proposed NSC sites for BNG mitigation

This scheme is particularly about matching North Somerset Council land availability with developers' BNG needs to generate income which will be used for a number of reasons including helping to provide capacity to process BNG through the planning application phase and supporting rewilding of open space.

This solution is proposed because developers are unlikely to have sufficient land to deliver all their BNG requirements, and North Somerset Council has land available to be rewilded and for addressing the nature emergency.

Analysis was also undertaken from the list of allocated sites in the Local Plan to calculate the demand for biodiversity offsets for proposed development land. This analysis concluded that about two thirds could deliver BNG on site, but this still left a projected requirement of 170 units.

This exercise has therefore identified a need for developers to access additional BNG units, which North Somerset Council has the capacity to provide at the sites identified above.

Appendix B - Options for delivering BNG in North Somerset

This option analysis considers the options available to the Council in relation to delivering Biodiversity Net Gain policy, as set out under the Environment Act 2021, due to come into force in Autumn 2023.

The Act requires all development schemes in England to deliver a mandatory 10% biodiversity net gain to be maintained for a period of at least 30 years. The concept seeks measurable improvements for biodiversity by creating or enhancing habitats in association with development. Development proposals must “leave biodiversity in a better state than before”.

BNG means developers and landowners in England must ensure their projects deliver biodiversity improvements to meet the required 10% increase. They must determine and evidence a project’s final BNG value using the specified Defra biodiversity metric for their plans to move through the planning process.

To achieve biodiversity net gain, proposals must follow the ‘mitigation hierarchy’ which primarily aims to avoid harm, then mitigate or, finally, compensate for any losses on-site, off-site or both. These measures will be required in planning conditions.

The Act will therefore inevitably lead to developers requiring offsite mitigation and this report identifies how this could be delivered in North Somerset.

There are considered two options for developers to provide offsite BNG:

1. The developer uses land that they have control over
2. The developer uses a third party’s land (which could include land owned by North Somerset Council)

Both of these options are acceptable to the Council provided the ecological advice is carefully followed and the BNG requirements can be proven to be deliverable.

It is therefore considered appropriate that the Council creates a ‘bank’ of BNG on its land to offer to developers who are unable to deliver the offsite BNG requirements themselves.

A BNG Delivery Programme will be created to enable this to happen.